

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VAHID SUTA,

Plaintiff,

v.

THE HOME DEPOT, INC.,

Defendant.

CASE NO. 2:22-cv-00744-RSL

ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO SERVE
ADDITIONAL INTERROGATORIES
AND REQUIRING AMENDMENT

This matter comes before the Court on “Plaintiff’s Motion for Leave to Serve Additional Interrogatories.” Dkt. # 12. Federal Rule of Civil Procedure 33(a)(1) authorizes parties to propound no more than 25 written interrogatories on another party. Leave to serve additional interrogatories may be granted where the information sought is relevant, non-privileged, and proportional to the needs of the case under Rule 26(b)(1). This expansive universe of discoverable information is bounded by limitations imposed by Rule 26(b)(2)(C), however, which state that the Court “must limit the frequency or extent of discovery . . . if it determines that “(i) the discovery sought is unreasonably cumulative or duplicative . . . [or] (ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action.”

1 Plaintiff alleges that he was injured at the Bitter Lake Home Depot in Seattle,
2 Washington, when an employee knocked a 15-20 lb box off an upper shelf and it landed on
3 plaintiff's head. Plaintiff served 25 interrogatories in August 2022 covering the following
4 topics:
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- 6 ▪ the identity of and information about the person or persons answering the
7 interrogatories (Interrogatory Nos. 1-4);
- 8 ▪ the incident giving rise to this lawsuit (Interrogatory Nos. 5-6);
- 9 ▪ whether the incident was investigated or memorialized and/or whether there are
10 persons with information regarding the incident (Interrogatory Nos. 7-12);
- 11 ▪ information regarding any experts or consultants Home Depot has retained for
12 purposes of this case (Interrogatory Nos. 13-14);
- 13 ▪ applicable insurance policies (Interrogatory Nos. 15-17); and
- 14 ▪ whether Home Depot contends that plaintiff caused or contributed to the accident
15 and any evidence supporting such a contention (Interrogatory Nos. 18-25).

16 Dkt. # 12-3 at 7-14. Home Depot objected to all but one of the interrogatories and declined
17 to provide substantive response to most of them. Defendant did not identify the corporate
18 officer or agent who furnished the information that was provided, and only its lawyers,
19 Kelsey L. Shewbert and Kaytlin L. Carlson, signed the responses.
20

21 Plaintiff subsequently served 9 more interrogatories. Some of the new requests are
22 obviously an attempt to overcome Home Depot's previous objections (Interrogatory No.
23 1), while others seek supplementation of initial disclosures and prior discovery responses
24 (Interrogatory Nos. 2-4). There are, however, a number of interrogatories that address new
25 topics, in particular the identity of persons who created policies related to restocking,
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1 customer assistance, and the retrieval of large/heavy items, the identity of persons who had
2 primary responsibility for those activities in the Bitter Lake store at the time of the
3 accident, and the management, training, and supervision of Rogelio Esparza. Interrogatory
4 Nos. 5-9. Home Depot objected to all of the new interrogatories on the ground that they
5 exceed the limit imposed by Rule 33(a)(1).
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7 Plaintiff's first set of interrogatories were not well-crafted, wasting a finite resource
8 to seek detailed information regarding issues of marginal relevance, to duplicate
9 disclosures mandated by Rule 26(a)(1), and to propound multiple interrogatories on the
10 same topic rather than following up with document requests and/or a deposition. This case
11 is not complex, and the new discovery topics should have been anticipated at the time the
12 first 25 interrogatories were served. The Court declines to authorize additional
13 interrogatories where plaintiff had ample opportunity to obtain the information he now
14 seeks but instead gave priority to inconsequential and unnecessary inquiries.
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17 Discovery closes on May 14, 2023. Plaintiff still has time in which to meet and
18 confer with Home Depot regarding perceived deficiencies in the discovery responses he
19 has already served, to file a motion to compel, and/or to serve a notice of deposition and
20 coordinating request for production of documents.¹ Home Depot is reminded that it has a
21 continuing duty to supplement its Rule 26(a) disclosures in a timely manner, including the
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25 ¹ Where the notice of deposition under Rule 30 requires the production of documents at the deposition, the
26 reasonableness of the notice is evaluated under Rule 34. Thus, if plaintiff opts to serve a notice of deposition in
conjunction with a request for the production of documents, the deposition cannot be scheduled until 30 days after
service of the notice. Thompson v. CoreLogic Rental Prop. Sols., LLC, No. 21-CV-1716-GPC(WVG), 2022 WL
16753141, at *3 (S.D. Cal. Oct. 13, 2022).

1 identification of all persons likely to have discoverable information. Fed. R. Civ. P.
 2 26(e)(1). Failure to timely disclose or supplement may result in the exclusion of the
 3 witness or evidence at trial. Fed. R. Civ. P. 37(c)(1).
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5 Although plaintiff has not filed a motion to compel, the Court will nevertheless
 6 direct Home Depot to comply with the dictates of Rule 33(b)(1) by identifying the
 7 corporate officer(s) or agent(s) who furnished the information needed to respond to the
 8 interrogatories and by including the signature of the person(s) making the answers, under
 9 oath, in addition to the signatures of the attorneys who lodged objections. Fed. R. Civ. P.
 10 33(b)(3) and (5).² Home Depot's amended responses shall be served within seven days of
 11 the date of this Order.
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15 Dated this 3rd day of April, 2023.

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 17 Robert S. Lasnik
 18 United States District Judge
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 24 ² Home Depot cites *Sprint Commc'ns Co. L.P. v. Crow Creek Sioux Tribal Court*, 316 F.R.D. 254, 273 (D.S.D.
 25 2016), and *Shire Labs., Inc. v. Barr Labs., Inc.*, 236 F.R.D. 225, 227 (S.D.N.Y. 2006), for the proposition that an
 26 attorney may be designated to answer interrogatories as the agent of a party. While that is undoubtedly true, there is
 no indication that counsel was so designated, and they did not sign the responses under oath. Home Depot's response
 to Interrogatory No. 1 strongly suggests that Ms. Shewbert and Ms. Carlson merely provided assistance in drafting the
 responses based on information that was provided by other, undisclosed persons. Dkt. # 12-3 at 7. The fundamental
 purpose of requiring a written response, namely, to bind the responding party, is in jeopardy as the record now stands.